

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

JAMES WOODHAM,	:	CIVIL ACTION NO. 1:11-CV-2095
	:	
Petitioner	:	(Judge Conner)
	:	
v.	:	
	:	
DAVID VARANO,	:	
	:	
Respondent	:	

ORDER

AND NOW, this 1st day of November, 2012, upon consideration of the order of the Third Circuit remanding the above-captioned matter to this court for the sole purpose of either issuing a certificate of appealability or stating reasons why a certificate of appealability should not issue, see Woodham v. Varano, No. 12-3913 (3d Cir. 2012) (order dated October 24, 2012); see also Doc. 23), and it appearing that, the court may issue a certificate of appealability “only if the applicant has made a substantial showing of the denial of a constitutional right,” 28 U.S.C. § 2253(c)(2), and it further appearing that by order of the court dated September 18, 2012, (Doc. 21), this court adopted the report and recommendation (“R&R”) (Doc. 17) of the Honorable J. Andrew Smyser, United States Magistrate Judge, and denied the petition for writ of habeas corpus filed by James C. Woodburn (“Woodburn”), wherein Woodburn asserted twenty (20) claims for relief, only five (5) of which were not procedurally defaulted, and the court finding, as stated in the magistrate judge’s R&R, that the remaining five (5) claims were subject to 28 U.S.C. § 2244(d)(1)(A)’s one-year statute of limitations and the court finding that the statute

of limitations had run and Woodburn's claims were not subject to equitable tolling, and the court further noting that with regard to Woodburn's fifteen (15) procedurally defaulted claims Woodburn failed to show "prejudice "as a result of the alleged violation of law or that failure to consider the claim will result in a fundamental "miscarriage of justice," see Carpenter v. Vaughn, 296 F.3d 138, 146 (3d Cir. 2002), and the court therefore concluding that Woodburn has not made a substantial showing of the denial of a constitutional right to warrant the issuance of a certificate of appealability, see 28 U.S.C. § 2253(c)(2), it is hereby ORDERED that a certificate of appealability shall not issue in the above caption matter.

S/ Christopher C. Conner
CHRISTOPHER C. CONNER
United States District Judge